

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE E. HEALTH CARE COUNCILS AND RESOURCE CENTERS

CHAPTER 108. HEALTH CARE DATA COLLECTION

Sec. 108.001. DEPARTMENT DUTIES. The department shall administer this chapter and report to the governor, the legislature, and the public.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.002. DEFINITIONS. In this chapter:

(1) "Accurate and consistent data" means data that has been edited by the department and subject to provider validation and certification.

(3) "Certification" means the process by which a provider confirms the accuracy and completeness of the data set required to produce the public use data file in accordance with department rule.

(4) "Charge" or "rate" means the amount billed by a provider for specific procedures or services provided to a patient before any adjustment for contractual allowances. The term does not include copayment charges to enrollees in health benefit plans charged by providers paid by capitation or salary.

(4-a) "Commission" means the Health and Human Services Commission.

(6) "Data" means information collected under Section 108.0065 or 108.009 in the form initially received.

(8) "Edit" means to use an electronic standardized process developed and implemented by department rule to identify potential errors and mistakes in data elements by reviewing data fields for the presence or absence of data and the accuracy and appropriateness of data.

(9) "Health benefit plan" means a plan provided by:

(A) a health maintenance organization; or

(B) an approved nonprofit health corporation that is certified under Section 162.001, Occupations Code, and that holds a certificate of authority issued by the commissioner of insurance under Chapter 844, Insurance Code.

(10) "Health care facility" means:

- (A) a hospital;
- (B) an ambulatory surgical center licensed under Chapter 243;
- (C) a chemical dependency treatment facility licensed under Chapter 464;
- (D) a renal dialysis facility;
- (E) a birthing center;
- (F) a rural health clinic;
- (G) a federally qualified health center as defined by 42 U.S.C. Section 1396d(1)(2)(B);
- (H) a freestanding imaging center; or
- (I) a freestanding emergency medical care facility, as defined by Section 254.001, including a freestanding emergency medical care facility that is exempt from the licensing requirements of Chapter 254 under Section 254.052(8).

(11) "Health maintenance organization" means an organization as defined in Section 843.002, Insurance Code.

(12) "Hospital" means a public, for-profit, or nonprofit institution licensed or owned by this state that is a general or special hospital, private mental hospital, chronic disease hospital, or other type of hospital.

(13) "Outcome data" means measures related to the provision of care, including:

- (A) patient demographic information;
- (B) patient length of stay;
- (C) mortality;
- (D) co-morbidity;
- (E) complications; and
- (F) charges.

(14) "Physician" means an individual licensed under the laws of this state to practice medicine under Subtitle B, Title 3, Occupations Code.

(15) "Provider" means a physician or health care facility.

(16) "Provider quality" means the extent to which a provider renders care that, within the capabilities of modern medicine, obtains for patients medically acceptable health outcomes and prognoses, after severity adjustment.

(17) "Public use data" means patient level data relating to individual hospitalizations that has not been summarized or analyzed, that has had patient identifying information removed, that identifies physicians only by use of uniform physician identifiers, and that is severity and risk adjusted, edited, and verified for accuracy and consistency. Public use data may exclude some data elements submitted to the department.

(19) "Severity adjustment" means a method to stratify patient groups by degrees of illness and mortality.

(20) "Uniform patient identifier" means a number assigned by the department to an individual patient and composed of numeric, alpha, or alphanumeric characters.

(21) "Uniform physician identifier" means a number assigned by the department to an individual physician and composed of numeric, alpha, or alphanumeric characters.

(22) "Validation" means the process by which a provider verifies the accuracy and completeness of data and corrects any errors identified before certification in accordance with department rule.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 261, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 802, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1460, Sec. 8.02, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.775, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.523, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 997 (S.B. [1731](#)), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 873 (S.B. [156](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 873 (S.B. 156), Sec. 7, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 7.01, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. 7), Sec. 7.07(b), eff. September 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0355, eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 1093 (H.B. 2041), Sec. 1, eff. September 1, 2019.

Sec. 108.006. POWERS AND DUTIES OF EXECUTIVE COMMISSIONER AND DEPARTMENT. (a) The department shall develop a statewide health care data collection system to collect health care charges, utilization data, provider quality data, and outcome data to facilitate the promotion and accessibility of cost-effective, good quality health care. The executive commissioner or department, as applicable, shall perform the following duties:

(1) the department shall direct the collection, dissemination, and analysis of data under this chapter;

(2) the department shall collect the data under this chapter;

(3) the executive commissioner shall adopt policies and rules necessary to carry out this chapter, including rules concerning data collection requirements;

(4) the department shall build on and not duplicate other data collection required by state or federal law, by an accreditation organization, or by department rule;

(5) working with appropriate agencies, the department, with the approval of the executive commissioner, shall review public health data collection programs in this state and recommend, where appropriate, consolidation of the programs and any legislation necessary to effect the consolidation;

(6) the department shall assure that public use data is made available and accessible to interested persons;

(7) the executive commissioner shall prescribe by rule the process for providers to submit data consistent with Section

108.009;

(8) the executive commissioner shall adopt by rule and the department shall implement a methodology to collect and disseminate data reflecting provider quality in accordance with Section 108.010;

(9) the department shall make reports to the legislature, the governor, and the public on:

(A) the charges and rate of change in the charges for health care services in this state;

(B) the effectiveness of the department in carrying out the legislative intent of this chapter;

(C) if applicable, any recommendations on the need for further legislation; and

(D) the quality and effectiveness of health care and access to health care for all citizens of this state;

(10) the department shall develop an annual work plan and establish priorities to accomplish its duties;

(11) the department shall provide consumer education on the interpretation and understanding of the public use or provider quality data before the data is disseminated to the public;

(12) the department shall work with the commission and each health and human services agency that administers a part of the state Medicaid program to avoid duplication of expenditures of state funds for computer systems, staff, or services in the collection and analysis of data relating to the state Medicaid program;

(13) the department shall work with the Department of Information Resources in developing and implementing the statewide health care data collection system and maintain consistency with Department of Information Resources standards; and

(14) the department shall develop and implement a health care information plan to:

(A) support public health and preventative health initiatives;

(B) assist in the delivery of primary and preventive health care services;

(C) facilitate the establishment of appropriate benchmark data to measure performance improvements;

(D) establish and maintain a systematic approach to the collection, storage, and analysis of health care data for longitudinal, epidemiological, and policy impact studies; and

(E) develop and use system-based protocols to identify individuals and populations at risk.

(b) The department may:

(1) employ a director and other staff, including administrative personnel, necessary to comply with this chapter and rules adopted under this chapter;

(2) engage professional consultants as it considers necessary to the performance of its duties; and

(3) apply for and receive any appropriation, donation, or other funds from the state or federal government or any other public or private source, subject to Section 108.015 and limitations and conditions provided by legislative appropriation.

(b-1) The executive commissioner may adopt rules clarifying which health care facilities must provide data under this chapter.

(c) The department may not establish or recommend rates of payment for health care services.

(d) The department may not take an action that affects or relates to the validity, status, or terms of an interagency agreement without the executive commissioner's approval.

(e) In the collection of data, the department shall consider the research and initiatives being pursued by the United States Department of Health and Human Services, the National Committee for Quality Assurance, and The Joint Commission to reduce potential duplication or inconsistencies. The executive commissioner may not adopt rules that conflict with or duplicate any federally mandated data collection programs or requirements of comparable scope.

(f) The executive commissioner shall prescribe by rule a public use data file minimum data set that maintains patient confidentiality and establishes data accuracy and consistency.

(g) The public use data file minimum data set as defined by department rule is subject to annual review by the department. The

purpose of the review is to evaluate requests to modify the existing minimum data set and editing process. A decision to modify the minimum data set by the addition or deletion of data elements shall include consideration of the value of the specific data to be added or deleted and the technical feasibility of establishing data accuracy and consistency. The department may also consider the costs to the department and providers associated with modifying the minimum data set.

(h) In accordance with Section [108.0135](#), the department may release data collected under Section [108.009](#) that is not included in the public use data file minimum data set established under Subsection (f).

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 261, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 802, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.0065. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT RELATING TO MEDICAID MANAGED CARE. (a) In this section, "Medicaid managed care organization" means a managed care organization, as defined by Section [533.001](#), Government Code, that is contracting with the commission to implement the Medicaid managed care program under Chapter [533](#), Government Code.

(b) The commission may direct the department to collect data under this chapter with respect to Medicaid managed care organizations. The department shall coordinate the collection of the data with the collection of data for health benefit plan providers, but with the approval of the commission may collect data in addition to the data otherwise required of health benefit plan providers.

(c) Each Medicaid managed care organization shall provide to the department the data required by the executive commissioner in the form required by the executive commissioner or, if the data is also being submitted to the commission, in the form required by the commission.

(d) Dissemination of data collected under this section is subject to Sections [108.010](#), [108.011](#), [108.012](#), [108.013](#), [108.014](#), and [108.0141](#).

(e) The commission shall analyze the data collected in accordance with this section and shall use the data to:

(1) evaluate the effectiveness and efficiency of the Medicaid managed care system;

(2) determine the extent to which Medicaid managed care does or does not serve the needs of Medicaid recipients in this state; and

(3) assess the cost-effectiveness of the Medicaid managed care system in comparison to the fee-for-service system, considering any improvement in the quality of care provided.

(h) The commission, using existing funds, may contract with an entity to comply with the requirements under Subsection (e).

Added by Acts 1999, 76th Leg., ch. 1460, Sec. 8.03, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. [71](#)), Sec. 11, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1050 (S.B. [71](#)), Sec. 22(5), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 14, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. [1179](#)), Sec. 25(85), eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.007. REVIEW POWERS. (a) The department, subject to reasonable rules and guidelines, may:

(1) inspect documents and records used by data sources that are required to compile data and reports; and

(2) compel providers to produce accurate documents and records.

(b) The department may enter into a memorandum of understanding with a state agency, including the division of the

commission responsible for the state Medicaid program, or with a school of public health or another institution of higher education, to share data and expertise, to obtain data for the department, or to make data available to the department. An agreement entered into under this subsection must protect patient confidentiality.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.0085. DUTIES OF ATTORNEY GENERAL. The attorney general shall furnish the department with advice and legal assistance that may be required to implement this chapter.

Added by Acts 1997, 75th Leg., ch. 261, Sec. 8, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.009. DATA SUBMISSION AND COLLECTION. (a) The department may collect, and, except as provided by Subsection (d), providers shall submit to the department or another entity as determined by the department, all data required by this section. The data shall be collected according to uniform submission formats, coding systems, and other technical specifications necessary to make the incoming data substantially valid, consistent, compatible, and manageable using electronic data processing, if available.

(b) The executive commissioner shall adopt rules to implement the data submission requirements imposed by Subsection (a) in appropriate stages to allow for the development of efficient systems for the collection and submission of the data. A rule adopted by the executive commissioner that requires submission of a data element that, before adoption of the rule, was not required to be submitted may not take effect before the 90th day after the date the rule is adopted and must take effect not later than the first anniversary after the date the rule is adopted.

(c) The department or another entity as determined by the

department to collect data from a provider under Subsection (a) shall maintain a database that does not include identifying information for use as authorized by law, including this chapter.

(d) The department may not collect data from individual physicians or from an entity that is composed entirely of physicians and that is a professional association organized under the former Texas Professional Association Act (Article 1528f, Vernon's Texas Civil Statutes) or formed under the Texas Professional Association Law, as described by Section 1.008(1), Business Organizations Code, a limited liability partnership organized under former Section 3.08, Texas Revised Partnership Act (Article 6132b-3.08, Vernon's Texas Civil Statutes), or formed as described by Subchapter J, Chapter 152, Business Organizations Code, or a limited liability company organized under the former Texas Limited Liability Company Act (Article 1528n, Vernon's Texas Civil Statutes) or formed under the Texas Limited Liability Company Law, as described by Section 1.008(e), Business Organizations Code, except to the extent the entity owns and operates a health care facility in this state. This subsection does not prohibit the release of data about physicians using uniform physician identifiers that has been collected from a health care facility under this chapter.

(e) The department shall establish the single collection point for receipt of data from providers. With the approval of the executive commissioner, the department may transfer collection of any data required to be collected by the department under any other law to the statewide health care data collection system.

(f) The executive commissioner may not require providers to submit data more frequently than quarterly, but providers may submit data on a more frequent basis.

(g) The department shall coordinate data collection with the data collection formats used by federally qualified health centers. To satisfy the requirements of this chapter:

(1) a federally qualified health center shall submit annually to the department a copy of the Medicaid cost report of federally qualified health centers; and

(2) a provider receiving federal funds under 42 U.S.C.

Section 254b or 254c shall submit annually to the department a copy of the Uniform Data System data report developed by the United States Department of Health and Human Services.

(h) The department shall coordinate data collection with the data submission formats used by hospitals and other providers. The department shall accept data in the format developed by the American National Standards Institute or its successor or other nationally accepted standardized forms that hospitals and other providers use for other complementary purposes.

(i) The executive commissioner shall develop by rule reasonable alternate data submission procedures for providers that do not possess electronic data processing capacity.

(k) The department shall collect health care data elements relating to payer type, the racial and ethnic background of patients, and the use of health care services by consumers. The department shall prioritize data collection efforts on inpatient and outpatient surgical and radiological procedures from hospitals, ambulatory surgical centers, and free-standing imaging centers.

(m) To the extent feasible, the department shall obtain from public records the information that is available from those records.

(o) A provider of a health benefit plan shall annually submit to the department aggregate data by service area required by the Healthcare Effectiveness Data and Information Set (HEDIS) as operated by the National Committee for Quality Assurance. The department may approve the submission of data in accordance with other methods generally used by the health benefit plan industry. If the Healthcare Effectiveness Data and Information Set does not generally apply to a health benefit plan, the department shall require submission of data in accordance with other methods. This subsection does not relieve a health care facility that provides services under a health benefit plan from the requirements of this chapter. Information submitted under this section is subject to Section 108.011 but is not subject to Section 108.010.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 261, Sec. 9, 14, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 802, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 997 (S.B. [1731](#)), Sec. 3, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 873 (S.B. [156](#)), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. [7](#)), Sec. 7.03, eff. September 28, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. [7](#)), Sec. 7.07(b), eff. September 1, 2014.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 344 (H.B. [764](#)), Sec. 1, eff. September 1, 2015.

Sec. 108.0095. NOTIFICATION OF DATA COLLECTION. (a) A provider shall provide to a patient whose data is being collected under this chapter written notice on a form prescribed by the department of the collection of the patient's data for health care purposes.

(b) The notice provided under this section must include the name of the agency or entity receiving the data and of an individual within the agency or entity whom the patient may contact regarding the collection of data.

(c) The department shall include the notice required under this section on an existing department form and make the form available on the department's Internet website.

Added by Acts 2015, 84th Leg., R.S., Ch. 344 (H.B. [764](#)), Sec. 2, eff. September 1, 2015.

Sec. 108.010. COLLECTION AND DISSEMINATION OF PROVIDER QUALITY DATA. (a) Subject to Section [108.009](#), the department shall collect data reflecting provider quality based on a methodology and review process established through the executive commissioner's rulemaking process. The methodology shall identify and measure quality standards and adhere to any federal mandates.

(b) The department shall study and analyze initial methodologies for obtaining provider quality data, including outcome data.

(c) The department shall test the methodology by collecting provider quality data for one year, subject to Section [108.009](#). The department may test using pilot methodologies. After collecting provider quality data for one year, the department shall report findings applicable to a provider to that provider and allow the provider to review and comment on the initial provider quality data applicable to that provider. The department shall verify the accuracy of the data during this review and revision process. After the review and revision process, provider quality data for subsequent reports shall be published and made available to the public, on a time schedule the department considers appropriate.

(d) If the department determines that provider quality data to be published under Subsection (c) does not provide the intended result or is inaccurate or inappropriate for dissemination, the department is not required to publish the data or reports based in whole or in part on the data. This subsection does not affect the release of public use data in accordance with Section [108.011](#) or the release of information submitted under Section [108.009\(o\)](#).

(e) The executive commissioner shall adopt rules allowing a provider to submit concise written comments regarding any specific provider quality data to be released concerning the provider. The department shall make the comments available to the public at the office of the department and in an electronic form accessible through the Internet. The comments shall be attached to any public release of provider quality data. Providers shall submit the comments to the department to be attached to the public release of provider quality data in the same format as the provider quality data that is to be released.

(f) The methodology adopted for measuring quality shall include case-mix qualifiers, severity adjustment factors, adjustments for medical education and research, and any other factors necessary to accurately reflect provider quality.

(g) In addition to the requirements of this section, any

release of provider quality data shall comply with Sections [108.011](#)(e) and (f).

(h) A provider quality data report may not identify an individual physician by name, but must identify the physician by the uniform physician identifier designated by the department under Section [108.011](#)(c).

(i) The department shall release provider quality data in an aggregate form without uniform physician identifiers when the cell size of the data is below the minimum size established by department rule that would enable identification of an individual patient or physician.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 261, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 802, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.011. DISSEMINATION OF PUBLIC USE DATA AND DEPARTMENT PUBLICATIONS. (a) The department shall promptly provide public use data and data collected in accordance with Section [108.009](#)(o) to those requesting it. The public use data does not include provider quality data prescribed by Section [108.010](#) or confidential data prescribed by Section [108.013](#).

(b) Subject to the restrictions on access to department data prescribed by Sections [108.010](#) and [108.013](#), and using the public use data and other data, records, and matters of record available to it, the department shall prepare and issue reports to the governor, the legislature, and the public as provided by this section and Section [108.006](#)(a). The department must issue the reports at least annually.

(c) Subject to the restrictions on access to department data prescribed by Sections [108.010](#) and [108.013](#), the department shall use public use data to prepare and issue reports that provide information relating to providers, such as the incidence rate of selected medical or surgical procedures. The reports must provide the data in a manner that identifies individual providers,

including individual physicians, and that identifies and compares data elements for all providers. Individual physicians may not be identified by name, but shall be identified by uniform physician identifiers. The executive commissioner by rule shall designate the characters to be used as uniform physician identifiers.

(c-1) The department shall use public use data to prepare and issue reports that provide information for review and analysis by the commission relating to services that are provided in a niche hospital, as defined by Section 105.002, Occupations Code, and that are provided by a physician with an ownership interest in the niche hospital.

(c-2) Subsection (c-1) does not apply to an ownership interest in publicly available shares of a registered investment company, such as a mutual fund, that owns publicly traded equity securities or debt obligations issued by a niche hospital or an entity that owns the niche hospital.

(d) The executive commissioner shall adopt procedures to establish the accuracy and consistency of the public use data before releasing the public use data to the public. The department may adopt additional procedures as the department determines necessary. The procedures adopted under this subsection must meet available best practices and national standards for public research on and consumer use of health care data collected by governmental agencies.

(e) If public use data is requested from the department about a specific provider, the department shall notify the provider about the release of the data. This subsection does not authorize the provider to interfere with the release of that data.

(f) A report issued by the department shall include a reasonable review and comment period for the affected providers before public release of the report.

(g) The executive commissioner shall adopt rules allowing a provider to submit concise written comments regarding any specific public use data to be released concerning the provider. The department shall make the comments available to the public at the office of the department and in an electronic form accessible through the Internet. The comments shall be attached to any public

release of the public use data. Providers shall submit the comments to the department to be attached to the public release of public use data in the same format as the public use data that is to be released.

(h) Tapes containing public use data and provider quality reports that are released to the public must include general consumer education material, including an explanation of the benefits and limitations of the information provided in the public use data and provider quality reports.

(i) The department shall release public use data in an aggregate form without uniform physician identifiers when the cell size of the data is below the minimum size established by department rule that would enable identification of an individual patient or physician.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 261, Sec. 11, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 802, Sec. 6, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 836 (S.B. [872](#)), Sec. 4, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 344 (H.B. [764](#)), Sec. 3, eff. September 1, 2015.

Sec. 108.012. COMPUTER ACCESS TO DATA. (a) The department shall provide a means for computer-to-computer access to the public use data. All reports shall maintain patient confidentiality as provided by Section [108.013](#).

(b) The department may charge a person requesting public use or provider quality data a fee for the data. The fees may reflect the quantity of information provided and the expense incurred by the department in collecting and providing the data. The executive commissioner by rule shall set the fees at a level that will raise revenue sufficient for the operation of the department. The department may not charge a fee for providing public use data to another state agency.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.
Amended by Acts 1997, 75th Leg., ch. 261, Sec. 11, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.013. CONFIDENTIALITY AND GENERAL ACCESS TO DATA.

(a) The data received by the department under this chapter shall be used by the department and commission only for the benefit of the public. Subject to specific limitations established by this chapter and department rule, the department shall make determinations on requests for information in favor of access.

(b) The executive commissioner by rule shall designate the characters to be used as uniform patient identifiers. The basis for assignment of the characters and the manner in which the characters are assigned are confidential.

(c) Unless specifically authorized by this chapter, the department may not release and a person or entity may not gain access to any data obtained under this chapter:

(1) that could reasonably be expected to reveal the identity of a patient;

(2) that could reasonably be expected to reveal the identity of a physician;

(3) disclosing provider discounts or differentials between payments and billed charges;

(4) relating to actual payments to an identified provider made by a payer; or

(5) submitted to the department in a uniform submission format that is not included in the public use data set established under Sections [108.006](#)(f) and (g), except in accordance with Section [108.0135](#).

(d) Except as provided by this section, all data collected and used by the department under this chapter is subject to the confidentiality provisions and criminal penalties of:

(1) Section [311.037](#);

(2) Section [81.103](#); and

(3) Section [159.002](#), Occupations Code.

(e) Data on patients and compilations produced from the data collected that identify patients are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding.

(f) Data on physicians and compilations produced from the data collected that identify physicians are not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this section; or

(2) admissible in any civil, administrative, or criminal proceeding.

(g) Unless specifically authorized by this chapter, the department may not release data elements in a manner that will reveal the identity of a patient. The department may not release data elements in a manner that will reveal the identity of a physician.

(h) Subsections (c) and (g) do not prohibit the release of a uniform physician identifier in conjunction with associated public use data in accordance with Section [108.011](#) or a provider quality report in accordance with Section [108.010](#).

(i) Notwithstanding any other law and except as provided by this section, the department may not provide information made confidential by this section to any other agency of this state.

(j) The executive commissioner shall by rule develop and implement a mechanism to comply with Subsections (c)(1) and (2).

(k) The department may disclose data collected under this chapter that is not included in public use data to any department or commission program if the disclosure is reviewed and approved by the institutional review board under Section [108.0135](#).

(l) Confidential data collected under this chapter that is disclosed to a department or commission program remains subject to the confidentiality provisions of this chapter and other applicable law. The department shall identify the confidential data that is

disclosed to a program under Subsection (k). The program shall maintain the confidentiality of the disclosed confidential data.

(m) The following provisions do not apply to the disclosure of data to a department or commission program:

- (1) Section [81.103](#);
- (2) Sections [108.010](#)(g) and (h);
- (3) Sections [108.011](#)(e) and (f);
- (4) Section [311.037](#); and
- (5) Section [159.002](#), Occupations Code.

(n) Nothing in this section authorizes the disclosure of physician identifying data.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 261, Sec. 12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 802, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.776, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 873 (S.B. [156](#)), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. [7](#)), Sec. 7.04, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 344 (H.B. [764](#)), Sec. 4, eff. September 1, 2015.

Sec. 108.0131. LIST OF PURCHASERS OR RECIPIENTS OF DATA. The department shall post on the department's Internet website a list of each entity that purchases or receives data collected under this chapter.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. [7](#)), Sec. 7.06, eff. September 28, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.0132. PROHIBITED CHARGE TO CERTAIN STATE AGENCIES FOR DATA. The department may not charge a fee to the commission or

any other health and human services agency for the use of any data collected under this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 344 (H.B. [764](#)), Sec. 5, eff. September 1, 2015.

Sec. 108.0135. INSTITUTIONAL REVIEW BOARD. (a) The department shall establish an institutional review board to review and approve requests for access to data not contained in public use data. The members of the institutional review board must have experience and expertise in ethics, patient confidentiality, and health care data.

(b) To assist the institutional review board in determining whether to approve a request for information, the executive commissioner shall adopt rules similar to the federal Centers for Medicare and Medicaid Services' guidelines on releasing data.

(c) A request for information other than public use data must be made on the form prescribed by the department.

(d) Any approval to release information under this section must require that the confidentiality provisions of this chapter be maintained and that any subsequent use of the information conform to the confidentiality provisions of this chapter.

Added by Acts 1999, 76th Leg., ch. 802, Sec. 8, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 873 (S.B. [156](#)), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 7 (S.B. [7](#)), Sec. 7.05, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.0136. REPORT; NOTIFICATION OF CYBER ATTACK. (a) The department shall prepare for the commissioner an annual report describing the security measures taken to protect data collected under this chapter and any breaches, attempted cyber attacks, and security issues related to the data that are encountered during the calendar year.

(b) The report described by this section is not subject to

Chapter 552, Government Code, but may be released on request to a member of the legislature.

(c) If a cyber attack occurs targeting data collected under this chapter, the department shall notify the Department of Public Safety of the State of Texas and the Federal Bureau of Investigation of the attack.

Added by Acts 2015, 84th Leg., R.S., Ch. 344 (H.B. 764), Sec. 6, eff. September 1, 2015.

Sec. 108.014. CIVIL PENALTY. (a) A person who knowingly or negligently releases data in violation of this chapter is liable for a civil penalty of not more than \$10,000.

(b) A person who fails to supply available data under Sections 108.009 and 108.010 is liable for a civil penalty of not less than \$1,000 or more than \$10,000 for each act of violation.

(c) The attorney general, at the request of the department, shall enforce this chapter. The venue of an action brought under this section is in Travis County.

(d) A civil penalty recovered in a suit instituted by the attorney general under this chapter shall be deposited in the general revenue fund to the credit of the health care information account.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1999, 76th Leg., ch. 802, Sec. 9, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.0141. CRIMINAL PENALTY. (a) A person who knowingly accesses data in violation of this chapter or who with criminal negligence releases data in violation of this chapter commits an offense.

(b) An offense under this section is a state jail felony.

Added by Acts 1997, 75th Leg., ch. 261, Sec. 13, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 802, Sec. 10, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.015. CONFLICT OF INTEREST. The department may not accept a donation from a person required to provide data under this chapter or from a person or business entity who provides goods or services to the department for compensation.

Added by Acts 1995, 74th Leg., ch. 726, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Sec. 108.016. SUNSET REVIEW. Unless the department is continued in existence in accordance with Chapter [325](#), Government Code (Texas Sunset Act), after the review required by Section [1001.003](#), this chapter expires on the date the department is abolished under that section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 919 (H.B. [1394](#)), Sec. 2, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 3.0355, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 837 (S.B. [200](#)), Sec. 4.02, eff. September 1, 2015.